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| EXAMINER | |
|---|---|
| MCCLELLAND, KIMBERLY KEIL | |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/705,228 | YAMAMOTO ET AL. | |
| | Examiner | Art Unit | |
| | Kimberly K. McClelland | 1734 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *22 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 November 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Amendment*

1. Applicant is reminded they need to explicitly point out where support for all the newly claimed features comes from as required by MPEP 5714.02 and j2163.06. See 37 CFR 1.111.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the apparatus of claims 20-21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-2, 5-9, 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,525,173 to Blenke et al. in view of U.S. Patent No. 6,505,791 to Syndikus et al.

5. With respect to claim 1, Blenke et al. discloses a method of applying curved elastic to a moving web, including feeding at least a single continuous web (24) in a machine direction as a component member of a disposable wearing article being continuously manufactured, feeding continuous elastic members (22) toward at least one surface of said web while said continuous elastic members are oscillated in a cross direction relative to said machine direction (See Figure 1), and attaching said continuous elastic members in a stretched state (column 9, lines 31-33) to said one surface in a accordance with a desired layout, said process further comprising the steps of: feeding said web to a nip between a pair of press rolls (70/72) substantially being in contact with each other and adapted to rotate in said machine direction around

respective axes extending parallel to each other in said cross direction; and feeding said elastic members (22) from upstream of said pair of press rolls (70/72) to the nip between said press rolls (70/72) via guide means (44) adapted to oscillate said elastic members (22) in said cross direction and attaching said elastic members (22) to said web (24) by means of an adhesive (62); wherein each of said guide means comprises: a motor (82) having a rotary shaft (47) extending in a direction crossing said axes and adapted to repeat reversal of its rotational direction (column 8, lines 50-52); an arm connected with said rotary shaft and extending in a direction crossing said rotary shaft (47), said arm being formed on its distal end with guide means adapted for passage (44) of said elastic members (22), and said arm being adapted to swing around said rotary shaft as said rotary shaft rotates; and at least one feed member (34) located upstream of said rotary shaft as viewed in said machine direction and adapted to direct said elastic members toward said guide means (44); and wherein, in the course of running from said feed member to said pair of press rolls via said guide means, said elastic members are attached to said web while said elastic members are oscillated in said cross direction by said arm connected directly with said rotary shaft so as to repeat reversal of its swinging direction (See Figures 1-2A; column 8, lines 50-52). However, Blenke et al. does not specifically disclose an arm connect directly with said rotary shaft.

6. Syndikus et al. discloses a thread traversing device, including it is known in the art of filament traversing devices to use a motor (8) having a rotary shaft (9) extending in a direction crossing said axes and adapted to repeat reversal of its rotational direction (See Figure 2); an arm (7) connected directly with said rotary shaft (9) and extending in

a direction crossing said rotary shaft (9), said arm being formed on its distal end with guide means adapted for passage (15) of said elastic members, and said arm being adapted to swing around said rotary shaft as said rotary shaft rotates. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the directly attached arm taught by Syndikus for the pivoting means disclosed by Blenke et al. The motivation would have been to provide better control over the oscillating movement of the guide means.

7. As to claim 2, Blenke et al. discloses a servomotor is used as said motor (column 8, lines 41-45).

8. As to claim 5, Blenke et al. discloses said axes of said pair of press rolls (70/ 72) extend in a horizontal plane, said rotary shaft (47) of said motor (82) extends in a vertical direction and said arm extends in said horizontal plane from said rotary shaft toward said nip between said pair of press rolls (See Figure 2A).

9. As to claim 6, Blenke et al. discloses said elastic members (22) are directed from said guide means (44) to said nip between said pair of press rolls (70/72) so that said elastic members are positioned in a plane a tangential to said press rolls in a region in which said press rolls substantially contact each other (See Figure 2A).

10. As to claim 7, Blenke et al. discloses said elastic members extend from said feed member to said guide means at a deviation angle of 10° or less relative to said horizontal plane defined by the parallel axes of the press rolls (See Figure 2A).

11. As to claim 8, Blenke et al. discloses an apparatus for applying curved elastic to a moving web, including a pair of press rolls (70/72) substantially contacting each other,

said press rolls (70/72) rotating in said machine direction around respective axes extending in said cross direction so as to feed said web (24) in said machine direction, and a guiding mechanism (44) located upstream of said pair of said press rolls (70/72) as viewed in said machine direction to oscillate said elastic members (22) in said cross direction; wherein said guide mechanism (44) comprises; a motor (82) having a rotary shaft (47) extending in a direction crossing said axes arid adapted to repeatedly reverse a rotational direction (column 8, lines 50-52); an arm connected directly with said rotary shaft and extending in a direction crossing said rotary shaft, said arm being formed on its distal end with said guiding element(44) through which at least one of said elastic members (22) is passable, and said arm being adapted to swing around said rotary shaft as said rotary shaft rotates; and at least one feed member (34) located upstream of said rotary shaft (47) as viewed in said machine direction and adapted to direct said elastic members toward said guiding element(44; See Figures 1-2A). Blenke et al. does not specifically disclose an arm connect directly with said rotary shaft.

12. Syndikus et al. discloses a thread traversing device, including it is known in the art of filament traversing devices to use a motor (8) having a rotary shaft (9) extending in a direction crossing said axes and adapted to repeat reversal of its rotational direction (See Figure 2); an arm (7) connected directly with said rotary shaft (9) and extending in a direction crossing said rotary shaft (9), said arm being formed on its distal end with guide means adapted for passage (15) of said elastic members, and said arm being adapted to swing around said rotary shaft as said rotary shaft rotates. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

substitute the directly attached arm taught by Syndikus for the pivoting means disclosed by Blenke et al. The motivation would have been to provide better control over the oscillating movement of the guide means.

13. As to claim 9, Blenke et al. discloses a servomotor is used as said motor (column 8, lines 41-45).

14. As to claim 12, Blenke et al. discloses said axes of said pair of press rolls (70/72) extend in a horizontal plane, said rotary shaft (47) of said motor (82) extends in a vertical plane and said arm extends in said horizontal direction front said rotary shaft toward said nip between said pair of press rolls (See Figure 2A).

15. As to claim 13, Blenke et al. discloses said elastic members (22) are directed from said guide means (44) to said nip between said pair of press rolls (70/72) so that said elastic members is in coincide with a tangential line with respect to a region in which said pair of press rolls substantially contact each other (See Figure 2A).

16. As to claim 14, Blenke et al. discloses said elastic members extend from said feed member to said guide means at a deviation angle of 10° or less relative to said horizontal direction (See Figure 2A).

17. As to claim 15, Blenke et al. discloses a method of applying curved elastic to a moving web, including press rolls (70/72) perpendicular to the guiding mechanism (44/46). However, Blenke et al. does not specifically disclose said rotary shaft is stationary relative to the axes of said press rolls.

18. Syndikus et al. discloses a thread traversing device, including it is known in the art of filament traversing devices with said rotary shaft (9) is stationary relative to the

axes of said press rolls (See Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the directly connecting arm taught by Syndikus for the pivoting means disclosed by Blenke et al. The motivation would have been to provide better control over the oscillating movement of the guide means.

19. As to claim 16, Blenke et al. discloses a method of applying curved elastic to a moving web, including press rolls (70/72) with the elastic members are being fed and oscillated at the same time towards said nip (See Figure 2). . However, Blenke et al. does not specifically disclose maintaining an axis of said rotary shaft stationary relative to the axes of said press rolls while the elastic members are being fed and oscillated at the same time towards said nip.

20. Syndikus et al. discloses a thread traversing device, including it is known in the art of filament traversing to maintain an axis of said rotary shaft (9) stationary relative to the axes of said press rolls (See Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the directly connecting arm taught by Syndikus for the pivoting means disclosed by Blenke et al. The motivation would have been to provide better control over the oscillating movement of the guide means.

21. As to claim 17, Blenke et al. discloses said elastic members (22) are attached to said web by means of the adhesive only (column 4, lines 49-53) in regions corresponding to leg openings of the disposable wearing article being manufactured (column 9, line 56-column 10, line 5); said method further comprising cutting the elastic

members between said regions so that the cut elastic members do not extend across an entire width of the disposable wearing article being manufactured (column 10, lines 25-28), and attaching an absorbent core to said web, wherein portions of the cut elastic members that have not been attached to said web contract to a relaxed state and are located near transverse edges of the absorbent core (column 11, lines 41-56).

22. As to claim 18, Blenke et al. discloses controlling rotational oscillating movements of the arm of each said guide means such that at least one of (i) the desired layout and (ii) a stretching ratio of the elastic members fed by one guide means is different from that of the elastic members fed by the other guide means (column 4, lines 2-4).

23. As to claim 19, Blenke et al. does not specifically disclose a rotational axis about which the arm swings coincides with a rotational axis of the rotary shaft.

24. Syndikus et al. discloses a thread traversing device, including it is known in the art of filament traversing to use a rotational axis about which the arm swings coincides with a rotational axis of the rotary shaft (See Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the directly connecting arm taught by Syndikus for the pivoting means disclosed by Blenke et al. The motivation would have been to provide better control over the oscillating movement of the guide means.

25. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,525,173 to Blenke et al. in view of U.S. Patent No. 6,505,791 to

Syndikus et al. as applied to claims 1-2, 5-9, and 12-19 above, and further in view of U.S. Patent No. 6,574,520 to Liu et al.

26. With respect to claim 3, Blenke et al. discloses a method of applying curved elastic to a moving web, including a servomotor (82) is used to rotate the rotary shaft (47; column 8, lines 50-52). However, Blenke et al. does not specifically disclose said servomotor is actuated by a controller containing therein a program adapted to rotate said servomotor on the basis of a running speed of at least said web in said machine direction and said layout desired for said elastic members.

27. Liu et al. discloses a method of manufacturing absorbent articles, including using servomotors actuated by a controller containing therein a program adapted to rotate said servomotor on the basis of a running speed of at least said web in said machine direction and said layout desired for said elastic members (column 15, lines 11-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the program taught by Liu et al. with the servomotor in the method of applying curved elastic to a moving web disclosed by Blenke et al. The motivation would have been to improve accuracy, synchronization, and flexibility of production of the articles (column 15, lines 11-25). It is well settled that it is not inventive to broadly provide a mechanical or automatic means to replace a manual activity which has accomplished the same results. *In re Venner and Bowser* 120 USPQ192.

28. As to claim 10, Blenke et al. discloses an apparatus for applying curved elastic to a moving web, including a servomotor (82) is used to rotate the rotary shaft (47; column 8, lines 50-52). However, Blenke et al. does not specifically disclose said servomotor is

actuated by a controller containing therein a program adapted to rotate said servomotor on the basis of a running speed of at least said web in said machine direction and said layout desired for said elastic members.

29. Liu et al. discloses an apparatus for manufacturing absorbent articles, including using servomotors actuated by a controller containing therein a program adapted to rotate said servomotor on the basis of a running speed of at least said web in said machine direction and said layout desired for said elastic members (column 15, lines 11-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the program taught by Liu et al. with the servomotor in the apparatus for applying curved elastic to a moving web disclosed by Blenke et al. The motivation would have been to improve accuracy, synchronization, and flexibility of production of the articles (column 15, lines 11-25). It is well settled that it is not inventive to broadly provide a mechanical or automatic means to replace a manual activity which has accomplished the same results. *In re Venner and Bowser* 120 USPQ192.

30. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,525,173 to Blenke et al. in view of U.S. Patent No. 6,505,791 to Syndikus et al. as applied to claims 1-2, 5-9, 12-19 above, and further in view of U.S. Patent No. 6,123,882 to Uchida et al.

31. With respect to claim 4, Blenke et al. discloses a method of applying curved elastic to a moving web, including an arm being adapted to swing around the rotary

shaft as the rotary shaft rotates (column 8, lines 50-52). However, Blenke et al. does not specifically disclose the materials used to make the arm.

32. Uchida et al. discloses a method of using thermoplastic, including structural members of a composite material comprising any one selected from the group consisting of carbon fiber, glass fiber, metallic fiber, synthetic fiber, semi-synthetic fiber and natural fiber and any one selected from the group consisting of thermoplastic synthetic resin and thermosetting synthetic resin (column 1, lines 12-31; column 10, lines 56-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Uchida's teaching of a composite material for the material composition of the swinging arm disclosed by Blenke et al. The motivation would have been to use a material with strength rigidity, a high elastic modulus during high-speed manufacturing processes (column 1, lines 12-31).

33. As to claim 11, Blenke et al. discloses an apparatus for applying curved elastic to a moving web, including an arm being adapted to swing around the rotary shaft as the rotary shaft rotates (column 8, lines 50-52). However, Blenke et al. does not specifically disclose the materials used to make the arm.

34. Uchida et al. discloses a thermoplastic article, including structural members of a composite material comprising any one selected from the group consisting of carbon fiber, glass fiber, metallic fiber, synthetic fiber, semi-synthetic fiber and natural fiber and any one selected from the group consisting of thermoplastic synthetic resin and thermosetting synthetic resin (column 1, lines 12-31; column 10, lines 56-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made

to use Uchida's teaching of a composite material for the material composition of the swinging arm disclosed by Blenke et al. The motivation would have been to use a material with strength rigidity, a high elastic modulus in a high-speed manufacturing apparatus (column 1, lines 12-31).

35. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,525,173 to Blenke et al. in view of U.S. Patent No. 6,505,791 to Syndikus et al. as applied to claims 1-2, 5-9, 12-19 above, and further in view of U.S. Patent No. 5,779,689 to Pfeifer et al.

36. With respect to claim 21, Blenke et al. discloses an apparatus for applying curved elastic to a moving web, including a pair of press rolls (70/72) substantially contacting each other, said press rolls (70/72) rotating in said machine direction around respective axes extending in said cross direction so as to feed said web (24) in said machine direction, and a guiding mechanism (44) located upstream of said pair of said press rolls (70/72) as viewed in said machine direction to oscillate said elastic members (22) in said cross direction; wherein said guide mechanism (44) comprises; a motor (82) having a rotary shaft (47) extending in a direction crossing said axes arid adapted to repeatedly reverse a rotational direction (column 8, lines 50-52); an arm connected directly with said rotary shaft and extending in a direction crossing said rotary shaft, said arm being formed on its distal end with said guiding element(44) through which at least one of said elastic members (22) is passable, and said arm being adapted to swing around said rotary shaft as said rotary shaft rotates; and at least one feed member (34) located

upstream of said rotary shaft (47) as viewed in said machine direction and adapted to direct said elastic members toward said guiding element(44; See Figures 1-2A). Blenke et al. also discloses applying a plurality of elastic members to a substrate (4, lines 49-52). Blenke et al. does not specifically disclose a second set of elastic member application means or the guiding mechanism connected directly to the motor.

37. Syndikus et al. discloses a thread traversing device, including it is known in the art of filament traversing devices to use a motor (8) having a rotary shaft (9) extending in a direction crossing said axes and adapted to repeat reversal of its rotational direction (See Figure 2); an arm (7) connected directly with said rotary shaft (9) and extending in a direction crossing said rotary shaft (9), said arm being formed on its distal end with guide means adapted for passage (15) of said elastic members, and said arm being adapted to swing around said rotary shaft as said rotary shaft rotates. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the directly attached arm taught by Syndikus for the pivoting means disclosed by Blenke et al. The motivation would have been to provide better control over the oscillating movement of the guide means.

38. Pfeiffer et al. discloses an apparatus for manufacturing diapers, including utilizing two separate, duplicate means of elastic member application means (13) wherein one is upstream from the other (See Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a second, duplicate set of the elastic member application means (44/47/70/72/82) disclosed by Blenke et al. upstream from the original set as taught by Pfeiffer et al. The motivation would have

been to apply a second set of elastic members to the substrate. It is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 124 USPQ 378 (CCPA 1960).

39. As to claim 20, Blenke et al. discloses controlling oscillating rotational movements of said arm (column 4, lines 2-4). However, Blenke et al. does not specifically disclose a controller or a second set of elastic member application means or intersecting elastic members.

40. Syndikus et al. discloses a thread traversing device, including a controller electrically coupled to the motor for controlling oscilating movements of the arm (See Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the directly attached arm taught by Syndikus for the pivoting means disclosed by Blenke et al. The motivation would have been to provide better control over the oscillating movement of the guide means.

41. Pfeiffer et al. discloses an apparatus for manufacturing diapers, including utilizing two separate, duplicate means of elastic member application means (13) wherein one is upstream from the other (See Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a second, duplicate set of the elastic member application means (44/47/70/72/82) disclosed by Blenke et al. upstream from the original set as taught by Pfeiffer et al. The motivation would have been to apply a second set of elastic members to the substrate. It is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 124 USPQ 378 (CCPA 1960). Pfeiffer et

al. also discloses allowing the upstream-applied elastic members to intersect with the downstream-applied elastic members (See Figures 4 and 5B). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the overlapping elastic members taught by Pfeiffer et al. with the elastic members disclosed by Blenke et al. The motivation would have been to form an elastic barrier around the absorbent core of the article (column 2, lines 53-61).

### *Response to Arguments*

42. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly K. McClelland whose telephone number is (571) 272-2372. The examiner can normally be reached on 8:00 a.m.-5 p.m. Mon-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris A. Fiorilla can be reached on (571)272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kim McClelland

KKM

CHRIS FIORILLA
SUPERVISORY PATENT EXAMINER
AU 1734